

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD**

**IN RE DISCIPLINARY PROCEEDINGS
AGAINST**

MICHAEL J. HASHEK,

RESPONDENT.

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FINAL DECISION AND ORDER

LS0702282APP

Division of Enforcement Case No. 05 APP 017

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

Michael J. Hashek
5325 South Greentree Drive
New Berlin, WI 53151

Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708 8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Real Estate Appraisers Board. The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Michael J. Hashek ("Hashek"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 5325 South Greentree Drive, New Berlin, WI 53151, and whose date of birth is April 23, 1963, possesses a certificate of licensure and a certificate of certification to practice as a certified residential appraiser (#9-30). The certificate was first granted on August 1, 1991, and will expire on December 14, 2007.

2. On May 7, 2002, Mr. Hashek conducted appraisals of real property located at 12660 West Capitol Drive, Brookfield, Wisconsin and 11803 West North Avenue, Wauwatosa, Wisconsin. Both appraisals are of multi-tenant office properties. Both appraisals were prepared to support the financing and purchase of the properties. Mr. Hashek concluded that market values of the properties were \$1,250,000 and \$800,000, respectively. The purchase of the properties was financed by a lending institution for the collective sum of \$1,462,500.

3. A review of the appraisal reports described above in paragraph 2 shows USPAP violations including, but not limited to, the following:

- a. USPAP Standards Rule 1-4(a), (b), and (c) by failing to properly analyze and support adjustments made in the sales comparison approach, land values in the cost approach, and expenses and cap rates in the income approach.
 - b. USPAP Standards Rule 1-5, by failing to address the listing and sales histories of the subject properties; and
 - c. USPAP Competency Rule by accepting and completing an assignment that he was not qualified to perform due to lack of knowledge.
4. A review of the appraisal reports shows that Mr. Hashek signed the certification statements as "Wisconsin

5. Per Wis. Admin. Code § RL 86.01(3), “A certified residential appraiser may not use the title ‘Wisconsin certified residential appraiser’... on any appraisal report... pertaining to commercial real estate having a transaction value of more than \$250,000.

6. Per Wis. Admin. Code § RL 86.03(1), “... each licensed and certified appraiser shall place his or her certificate number adjacent to or immediately below the title, ‘Wisconsin certified general appraiser,’ ‘Wisconsin certified residential appraiser,’ or ‘Wisconsin licensed appraiser,’ as appropriate, on each appraisal report...”

7. Per Wis. Stat. § 458.16(1), “Each certified appraiser shall place his or her title... and certificate number on each appraisal report... The title ‘Wisconsin certified residential appraiser’... may only be used on an appraisal report... having a transaction value of not more than \$250,000 or to residential real estate.”

8. Per Wis. Stat. § 458.26(3), “... the board may limit, suspend or revoke any certificate under this chapter... if the... board finds that the... holder of the certificate has done any of the following: (b) Engaged in unprofessional... conduct in violation of rules promulgated under s. 458.24. (i) Violated this chapter or any rule promulgated under this chapter.”

9. Per Wis. Admin. Code § RL 86.01(2), “All appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I.”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Appraisers Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.

2. The Wisconsin Real Estate Appraisers Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

3. By performing appraisals and rendering appraisal reports that do not conform to the Uniform Standards of Professional Appraisal Practice, as set forth more fully above in paragraph 3 of the Findings of Fact, Mr. Hashek has violated Wis. Admin. Code § RL 86.01(2), thereby subjecting himself to discipline per Wis. Stat. § 458.26(3)(b).

4. By affixing his name and license number to two appraisal reports adjacent to an unauthorized title, Mr. Hashek has violated Wis. Admin. Code § 86.03(1) and Wis. Stat. § 458.16(1), thereby subjecting himself to discipline per Wis. Stat. § 458.26(3)(i).

5. By conducting and signing reports for two appraisals with transactional values in excess of \$250,000, Mr. Hashek has exceeded the scope of his license and certification contrary to Wis. Admin. Code § RL 86.01(3) and Wis. Stat. § 458.16(1), thereby subjecting himself to discipline per Wis. Stat. § 458.26(3)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. **Michael J. Hashek** (license # 9-30) shall be, and hereby is, **SUSPENDED** for a period of six months, beginning days after the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. The license and certification of **Michael J. Hashek** (license # 9-30) shall be limited to prohibit him from conducting any appraisal of commercial real estate, and from signing any appraisal report concerning commercial real estate, until and unless successfully completes the following as remedial education, which may not be counted towards his continuing education requirement: (a) General Appraiser Sales Comparison Approach, offered by the Appraisal Institute; and (b) General Appraiser Income Approach, Part I, offered by the Appraisal Institute. Successful completion of one or more of these courses will include successful completion of any testing component, if offered.

3. **Michael J. Hashek** must successfully complete the following course within six months of the date of signing of this Order: Business Practices and Ethics, offered by the Appraisal Institute. This course shall be taken as remedial education, and may not be counted towards continuing education requirements. Successful completion of this course will include successful completion of any testing component, if offered.

4. **Michael J. Hashek** shall pay costs of this investigation in the amount of one thousand (\$1,000.00) dollars within one year of the day of the signing of this Order.

5. Proof of completion of coursework and payment of costs shall be mailed, faxed, delivered or otherwise transmitted to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

6. Case number 05 APP 017 is hereby closed.

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license and certification (#9-30). The Real Estate Appraisers Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to timely submit any payment of costs as set forth above, or fails to complete the ordered education the Respondent's license and certification (#9-30) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

8. This Order is effective on the date of its signing.

REAL ESTATE APPRAISERS BOARD

By: Mark P. Kowbel
A Member of the Board

2/28/07
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE APPRAISERS BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
MICHAEL J. HASHEK,	:	
	:	LS _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No. 05 APP 017

It is hereby stipulated and agreed, by and between Michael J. Hashek, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation against Respondent’s licensure by the Division of Enforcement (05 APP 017). Respondent consents to the resolution of this matter without the filing of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Appraisers Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board’s order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Appraisers Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Board adopt this Stipulation, the Board’s final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

MICHAEL J. HASHEK

Respondent

5325 South Greentree Drive

New Berlin, WI 53151

Date

MARK A. HERMAN

Attorney, Division of Enforcement

1400 East Washington Avenue

Madison, WI 53708-8935

Date